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Title

INCLUSIVE GENDER PRACTICES FOR INCARCERATED INDIVIDUALS

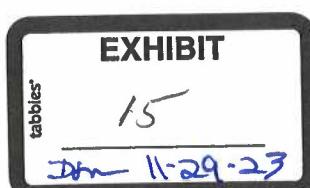
Legal References (includes but is not limited to)	Related Policies/Procedures (includes but is not limited to)	Replaces:
IC 11-8-2-5(a)(8) IC 11-8-2-9 IC 11-10-1-1 <i>et seq.</i> IC 11-10-2-1 <i>et seq.</i> IC 11-10-3-1 <i>et seq.</i> IC 11-11-6-1 IC 16-21-8-1.5 IC 35-42-4-1 IC 35-42-4-2 IC 35-42-4-8 IC 35-44.1 IC 35-45-4-5 United States Department of Justice National Standards to Prevent, Detect, and Respond to Prison Rape Final Rule	00-01-103 02-01-107 00-02-301 02-04-101 00-04-201 03-01-101 01-02-101 03-02-101 01-03-103 03-02-103 01-04-101 03-02-104 01-04-104 03-03-101 01-04-106 04-03-103 01-05-101 HCSD 2.17A Health Services Sexual Assault Manual	02-01-118 eff. date 7/1/2019 (ED # 19-42)

I. PURPOSE:

The purpose of this policy and administrative procedure is to provide guidelines for the Department to meet the federal Prison Rape Elimination Act of 2003 (PREA) standards, and to address the appropriate programming, safety, security, and health needs of transgender, gender diverse, and intersex incarcerated individuals.

II. POLICY STATEMENT:

The Department of Correction shall receive, evaluate, house, and provide secure and humane custody of all persons committed to or held by the Department. An incarcerated individual's biological sex and gender identity are recognized as factors in determining whether the incarcerated individual is likely to become a victim of abuse in a Department



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facility and shall be considered in applicable decision processes regarding the incarcerated individual. The Department shall screen incarcerated individuals to identify potential aggressors and victims in accordance with Policy and Administrative Procedure 02-01-115, "Sexual Abuse Prevention."

III. DEFINITIONS:

For the purpose of this policy and administrative procedure, the following definitions are provided:

- A. **GENDER:** The male or female division of a species, especially as differentiated by social and cultural roles and behavior.
- B. **GENDER DIVERSE:** An umbrella term covering any gender identity or expression that does not fit within the gender binary. The label may also be used by individuals wishing to identify as falling outside the gender binary without being any more specific about the nature of their gender. Examples include gender fluid, gender queer, intergender, or agender.
- C. **GENDER IDENTITY:** A person's internal, deeply felt sense of being male or female, regardless of the person's sex at birth.
- D. **INCARCERATED INDIVIDUAL:** An adult committed to a department of correction (federal, state, or local) and housed or supervised in a facility either operated by the department of correction or with which the department of correction has a contract, including an adult or juvenile under parole supervision; under probation supervision following a commitment to a department of correction; in a minimum security assignment, including an assignment to a community transition program.
- E. **INTERSEX:** A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development. An intersex diagnosis does not necessarily indicate the incarcerated individual identifies as transgender.
- F. **IRIS:** IDOC Records Management System. The electronic storage system used by the Department for the storing and maintenance of incarcerated individuals' records.

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- G. **LGBTI:** Lesbian, Gay, Bisexual, Transgender, Intersex
- H. **PRISON RAPE ELIMINATION ACT (PREA):** The federal law addressing sexual violence in prison, jails, and other correctional facilities. Under PREA, the National Prison Rape Elimination Commission was created with the responsibility for establishing standards for the prevention, detection, response, and monitoring of sexual abuse and violence within correctional systems.
- I. **TRANSGENDER:** A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.
- J. **TRANSGENDER REVIEW COMMITTEE:** A treatment team comprised of facility staff from different on-site disciplines that contribute a broad range of perspective and treatment modalities in the management of affected incarcerated individuals' needs. The Committee shall minimally include the Classification Supervisor, PREA Compliance Manager, Health Services personnel, Behavioral Health personnel, Unit Team staff, Custody staff, and the Deputy Warden.

IV. INCARCERATED INDIVIDUALS DIAGNOSED OR SELF-IDENTIFYING:

An incarcerated individual who self-identifies as transgender, gender diverse, or is diagnosed as intersex (either at Intake or a residential facility) shall be referred to Health Services and evaluated in accordance with Health Care Services Directive 2.17A, "Health Services for Transgender and Gender Diverse Patients." Health Services and Mental Health staff shall complete State Form 56492, "Transgender Evaluation" and forward a copy to the facility PREA Compliance Manager.

The incarcerated individual shall be placed on the facility PREA Compliance Manager's tracking mechanism for LGBTI individuals, and complete a new PREA Risk Screening (formerly Sexual Violence Assessment Tool-SVAT). The new PREA Risk Screening shall ensure an initial placement and programming assessment with subsequent reassessments, and pronoun preferences are completed every six (6) months from the date of identification to the facility in accordance with Policy and Administrative Procedure 02-01-115, "Sexual Abuse Prevention."

V. TRANSGENDER REVIEW COMMITTEE:

After the facility PREA Compliance Manager receives the completed State Form 56492, "Transgender Evaluation," from the facility Health Services Administrator (HSA), the PREA Compliance Manager shall have the incarcerated individual complete a Facility

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Preference Statement form. The PREA Compliance Manager shall coordinate with the facility Classification Supervisor to complete State Form 56615, “Transgender/Intersex Placement Review.”

When State Form 56615 is completed, the PREA Compliance Manager shall schedule the Transgender Review Committee and invite the incarcerated individual to the meeting to discuss the Facility Preference Statement and other potential requested accommodations. Other accommodations to be reviewed include, but are not limited to, the request for the identified gender's undergarments (up to 3 pairs of boxers/bras free of charge) and preferred pronouns in accordance with Policy and Administrative Procedure 02-01-115, “Sexual Assault Prevention.”

The Transgender Review Committee shall confirm the incarcerated individual's preferred pronouns and/or other confirmed accommodations to affirm their gender. These confirmed accommodations shall be included on the incarcerated individual's Transgender Access Card, which is provided to them to keep on their person. Replacement cards may come with a fee per facility procedure. Staff shall take meaningful steps to meet these confirmed accommodations, absent a declared facility emergency by the Warden/designee or exigent circumstances.

VI. HOUSING ASSIGNMENT:

In deciding whether to assign a transgender, gender diverse, or intersex incarcerated individual to a facility of their identified gender and in making other housing and programming assignments, the Department shall consider, on a case-by-case basis, whether a placement would ensure the incarcerated individual's health, safety, and security; and whether the placement would present management or other safety or security concerns. Serious consideration shall be given to such an incarcerated individual's own views with respect to their own safety.

The Transgender Review Committee shall consider the following information at minimum:

- A. The incarcerated individual's own views of where they feel safe;
- B. Medical and Mental Health assessment;
- C. Security Threat Group (STG) affiliation;
- D. Criminal history: sex or violent offense;
- E. Conduct history: sex or violent offense;
- F. PREA flag status;
- G. Gender expression;
- H. Policy and Administrative Procedure 01-04-101, “Adult Classification,”

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- I. Policy and Administrative Procedure 01-07-101, “The Development and Delivery of Programs, Pre-Release, and Case Management;”
- J. Security level; and,
- K. Any other factors impacting safety and security.

The Transgender Review Committee shall make a recommendation on State form 56615 for the placement of the incarcerated individual based on all information reviewed. The PREA Compliance Manager shall forward the completed State form 56615, last completed PREA Risk Screening (formerly Sexual Violence Assessment Tool-SVAT) and State Form 56492, “Transgender Evaluation,” to the Director of PREA within five (5) business days.

Within thirty (30) days of receipt, the Director of PREA shall convene a committee consisting of, but not limited to:

- A. The Deputy Commissioner of Diversity and Development;
- B. The Executive Director of Behavioral Health;
- C. The Executive Directors of Adult Facilities;
- D. The Executive Director of Classification;
- E. The Executive Director of Programs and Re-Entry Readiness;
- F. The Director of PREA; and,
- G. The Chief Legal Officer (non-voting, advisory only).

This committee shall discuss treatment suggestions and accommodations made by the Transgender Review Committee and determine whether the incarcerated individual is housed in a location that will offer safety and security for them and the Department. Serious consideration shall be given to the facility’s assessment recorded on State Form 56492. The findings of this committee shall be documented and a recommendation forwarded to the office of the Deputy Commissioner of Operations for review and decision.

Following the Deputy Commissioner of Operation’s decision on the recommendation, it shall be forwarded to the Executive Director of Classification, who shall notify the facility’s Warden and cause the Deputy Commissioner of Operation’s decision to be effected. The completed State Form 56492 and State Form 56615 shall be filed in the incarcerated individual’s medical record, in the confidential section of their facility packet, and scanned into IRIS. The Warden or designee shall notify the individual of the decision.

Transgender and intersex incarcerated individuals may not be assigned to gender-specific facilities based solely on their external genital anatomy. While determining housing placement, the Department shall consider physical layout and incarcerated individuals’ privacy issues when determining location. Facilities shall not place transgender or intersex

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incarcerated individuals in dedicated buildings, units, or ranges solely on the basis of such identified status.

The Division of Classification, in consultation with the Department's Executive Staff, including the Chief Medical Officer and Executive Director of Behavioral Health, shall ensure transgender and intersex incarcerated individuals are housed in a manner consistent with their medical and mental health needs, sentencing level, and Policy and Administrative Procedure 01-04-101.

VII. APPLICABILITY:

This policy and administrative procedure is applicable to all facilities housing adult incarcerated individuals.

_____ signature on file _____

Christina Reagle
Commissioner

_____ Date _____